REMARKS

Favorable consideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1, 3-5, 7 and 8-13 are pending, Claims 2 and 6 having previously been canceled without prejudice or disclaimer and an informality in Claim 10 corrected by way of the present amendment.

In the outstanding Office Action the Title was objected to; Claim 10 was rejected under 35 U.S.C. § 112, second paragraph; Claims 1, 3-5 and 7-13 were rejected as being anticipated by Matsuda et al. (U.S. Patent Publication No. 2005/0251816, hereinafter "Matsuda"); Claims 1, 3-5 and 7-13 were rejected as being anticipated by JP 2004-079046; and Claims 1, 3-5 and 7-13 were rejected as being anticipated by Eum (U.S. Patent No. 5,610,890).

In light of the April 2, 2008 Advisory Action, Applicants have rewritten Claims 4 and 12 in independent form.

In reply, the Title and Claim 10 have been amended and the Abstract has been amended as requested. Claim 10 has further been amended to be consistent with 35 U.S.C. § 112, second paragraph.

With regard to Matsuda et al., Matsuda et al. is not prior art with regard to the presently pending application. Applicants file herewith a translation of Japanese Priority Document JP 2004-139628, which was filed in the JPO on March 10, 2004, and is earlier than the April 25, 2005 filing date of Matsuda. Because the Japanese priority date provides an enabling and adequate written description of the presently claimed invention, as is evident from the accurate translation of the certified priority document, it is respectfully submitted that Matsuda is not prior art with regard to the presently pending claims. All of the remarks

provided in the amendment of September 10, 2007 are believed to be valid and are therefore incorporated herein by reference.

In paragraph 10 of the outstanding Office Action, the Office Action provides its remarks with regard to the arguments filed by Applicants on September 10, 2007. As discussed above, the arguments with regard to Matsuda are believed to be moot in view of the perfection of priority.

In a non-limiting example, and so as to help the Office and Applicants have an understanding of what is covered by Claim 1, one example of an elastic flat portion is element 221 in Figures 26B, 27B, 28B, and Figure 29B. The elastic flat portion has a leading end (223) oriented towards the insertion/removal position (the bottom of the page in Figure 26B). This elastic flat portion gives the disk cartridge a braking force when inserted or removed therefrom.

Comparing Claim 1 with JP 2004-79046, Claim 1 requires an elastic flat portion provided on the second side wall that is opposite a first side wall that faces a reproducing/recording opening portion (see portion in Figure 26B). In contrast, JP 2004-79046 includes element 30, that is formed on a same side as a reproducing/recording opening portion (61). Furthermore, the alleged protruded portion 30 in JP 2004-79046 is not disposed on the leading end portion of the elastic flat portion. Rather, as seen in the arrows in Figures 17B and 18B, the disk cartridge is inserted from the left-hand side of the page, while the element 30 is disposed on the right-hand side of the page. As such, element 30 is not disposed on a leading end portion of the elastic flat portion.

Furthermore, Claim 1 defines the leading end of the elastic flat portion to be oriented toward the insertion/removal position, which is clearly shown in Figures 17B and 18B of JP 2004-79046 to be the left-hand side of the page. As such, it is respectfully submitted that the Office Action has not reasonably construed the structural language of Claim 1 as it relates to

JP 2004-79046. If the language of Claim 1 were properly construed, JP 2004-79046 would describe a structural apparatus that is opposite that claimed in Claim 1.

Eum is broadly asserted for disclosing in Figures 12-14 an elastic flat portion, as claimed. The Office Action identifies the protruded portion 102 as being disposed on the leading end portion of the elastic flap. However, this clearly cannot be the case, because as seen from Figure 6 for example, a disk cartridge 1 is inserted from an upper right-hand side of the page, while the "suspending portion 102 is disposed on a bottom left-hand of the apparatus shown in Figure 6. Furthermore, the reproducing/recording opening position in Eum does not face either a first side wall, or a second side wall, but is rather disposed on an upper portion of the disk cartridge. (See, e.g., Figure 7).

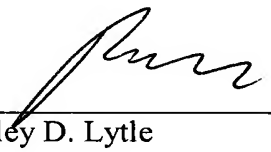
Furthermore, Eum operates by having a locking lever spring 104 with a suspending portion 102 enter a groove 12 of a minidisk 1 (column 7, lines 47-52). "Even though a user attempts to extract the minidisk 1 in order to exchange the minidisk for another one, the minidisk 1 could not be removed since the fixing groove 12 receives a suspending portion 102 ..." (column 7, lines 52-54). As such, the protruded portion cannot reasonably be construed as making sliding contact with the side surface's disk cartridge, but rather being prevented from further movement by the fixing groove 12, receiving the suspending portion 102 in Eum. As such, it is respectfully submitted that Eum does not teach or suggest the elastic flap or the protruded portion of the elastic flap portion as claimed.

Because the asserted prior art does not teach or suggest all of the elements of independent Claim 1 it is respectfully submitted that independent Claim 1 patentably defines over the asserted prior art. Although of differing statutory class and/or scope, it is respectfully submitted that Claims 3-5, 7 and 8-13, also patentably define over the asserted prior art.

Consequently, the present application is believed to be in condition for formal allowance and an early and favorable reconsideration of this application is therefore requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Bradley D. Lytle
Attorney of Record
Registration No. 40,073

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413-2220
(OSMMN 06/04)